

Senate Bill 126

By: Senator Bulloch of the 11th

**AS PASSED**

AN ACT

To create the Decatur County School Building Authority and to authorize such authority to provide, acquire, construct, equip, maintain, and operate public service facilities, to acquire the necessary property therefor, both real and personal, and to lease or sell any or all of such facilities, including real and personal property; to confer powers and to impose duties on the authority; to provide for the membership and for the appointment of members of the authority and their term of tenure and compensation; to authorize the authority to contract with the Decatur County School District pertaining to facilities and services, to execute leases and contracts relating to such facilities and services, to convey title to property of the authority in fee simple, and to do all things deemed necessary or convenient for the operation of such undertakings; to authorize the authority and the Decatur County School District to enter into contracts and leases pertaining to uses of such facilities and services, which contracts and leases shall obligate the lessees to make payment for the use of such facilities and services for the term thereof and to pledge for that purpose revenues derived from taxation; to provide that no debt of the Decatur County School District or other political subdivisions within the meaning set forth in Article IX, Section V, Paragraph I of the Constitution of the State of Georgia, shall be incurred by exercise of the powers granted; to authorize the issuance of revenue bonds or obligations of the authority, payable from the revenues, tolls, fees, charges, and earnings of the authority, including, but not limited to, earnings derived from contracts, leases, and income from conveyances of real or personal property of the authority; to authorize the payment of the cost of such undertakings, to authorize the collection and pledging of the revenues and earnings of the authority for the payment of such bonds or obligations and to secure the payment thereof; to define the rights of the holders of such bonds or obligations; to make the bonds or obligations of the authority exempt from taxation; to make the property of the authority exempt from taxation and assessment; to grant the authority and its members certain immunities; to authorize the issuance of refunding bonds or obligations; to fix the venue or jurisdiction of actions relating to any provisions of this Act; to provide that bonds or obligations be validated as authorized by Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, the

"Revenue Bond Law"; to provide for construction; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Short title.

This Act shall be known and may be cited as the "Decatur County School Building Authority Act."

**SECTION 2.**

Decatur County School Building Authority.

(a) There is hereby created a public body corporate and politic to be known as the "Decatur County School Building Authority," which shall be deemed to be a political subdivision of this state and a public corporation, and by that name, style, and title said body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts of law and equity except that the authority or the trustee acting under a trust indenture shall in no event be liable for any torts committed by any of the officers, agents, and employees of the authority. The authority shall not be a state institution, nor a department or agency of the state, but shall be an instrumentality of the state having a distinct corporate entity, exercising governmental powers, and being exempt from the provisions of Article 2 of Chapter 17 of Title 50 of the Official Code of Georgia Annotated, the "Georgia State Financing and Investment Commission Act." The authority is granted the same exemptions and exclusions from taxes as are now granted to school districts for the operation of facilities similar to facilities to be operated by the authority as provided under the provisions of this Act. The authority shall have perpetual existence.

(b) The authority shall consist of three members who shall be appointed by the governing authority of the Decatur County School District. With respect to the initial appointment by the governing authority of the Decatur County School District, one member shall be appointed for a term of three years; one member shall be appointed for a term of two years; and one member shall be appointed for a term of one year. Thereafter, all appointments shall be made for terms of three years and until successors are appointed and qualified.

Immediately after such appointments, the members of the authority shall enter upon their duties. If at the end of any term of a member, a successor has not been appointed, such member shall continue to be a member of the authority until a successor is so appointed. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age and a resident of Decatur County, Georgia, for at least two years prior to the date of his or her appointment and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself.

(c) Any vacancy on the authority shall be filled in the same manner as was the original appointment of the member whose termination of membership resulted in such vacancy, and the person so selected and appointed shall serve for the remainder of the unexpired term.

(d) Prior to assuming office as a member of the Authority, each member shall subscribe to the following oath: "I do solemnly swear or affirm that I will diligently and honestly administer the affairs of the Decatur County School Building Authority which have been entrusted to me and that I will not knowingly violate or willingly permit to be violated any law applicable to the Authority; that I am not the holder of any unaccounted for public money due this state or any political subdivision thereof; that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am, by the laws of the State of Georgia, prohibited from holding; that I am otherwise qualified to hold said office according to the Constitution and laws of Georgia; and that I will support the Constitution of the United States and of this State."

(e) The governing authority of the Decatur County School District may provide by resolution that such members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

(f) The members of the authority shall elect one of their number as chairperson and another as vice chairperson. The members of the authority shall also elect a secretary, who need not be a member of the authority, and may also elect a treasurer, who need not be a member of the authority. The secretary may also serve as treasurer. If the secretary or treasurer are not members of the authority, such officers shall have no voting rights. Each of such officers shall serve for a period of one year and until their successors are duly elected and qualified.

(g) Two members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all of the rights and perform all of the duties of the authority.

(h) The authority shall make rules and regulations for its own governance. Any change in the name or composition of the authority shall in no way affect the vested rights of any

person under the provisions of this Act or impair the obligations of any contracts under this Act.

### **SECTION 3.**

Purpose of the authority.

Without limiting the generality of any provision of this Act, the general purpose of the authority is declared to be that of providing buildings, facilities, and services for the officers, agents, students, teachers, patrons and employees in the Decatur County School District.

### **SECTION 4.**

Definitions.

As used in this Act, the term:

- (1) "Authority" means the Decatur County School Building Authority created by this Act.
- (2) "Costs of the project" means and embraces the cost of construction; the cost of all lands, properties, rights, easements, and franchises acquired; the cost of all machinery and equipment; financing charges; interest prior to and during construction and for one year after completion of construction; the cost of engineering, architectural, fiscal agents' expenses, legal expenses, plans and specifications, and other expenses necessary or incidental to determining the feasibility or practicability of the project; administrative expenses and such other expenses as may be necessary or incident to the financing authorized in this Act; working capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip, operate, and maintain the project. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of revenue bonds or notes issued under the provisions of this Act for such project.
- (3) "Project" means all buildings and facilities necessary or convenient for the efficient operation of the Decatur County School District.
- (4) "Revenue Bond Law" means the Revenue Bond Law of the State of Georgia, codified in Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, as amended, or any other similar law hereinafter enacted.
- (5) "Revenue bonds" means revenue bonds authorized to be issued pursuant to this Act.

(6) "Self-liquidating" means any project from which the revenues and earnings to be derived by the authority therefrom, including but not limited to, any contractual payments with governmental or private entities and all properties used, leased, and sold in connection therewith, together with any grants, will be sufficient to pay the costs of operating, maintaining, and repairing the project and to pay the principal and interest on the revenue bonds or other obligations which may be issued for the purpose of paying the costs of the project.

(7) "State" means the State of Georgia.

## **SECTION 5.**

### **Powers.**

The authority shall have the power:

- (1) To have a seal and alter the same at its pleasure;
- (2) To acquire by purchase, lease, gift, or otherwise and to hold, operate, maintain, lease, and dispose of real and personal property of every kind and character for its corporate purposes;
- (3) To acquire in its own name by purchase on such terms and conditions and in such manner as it may deem proper, real property or rights or easements therein or franchises necessary or convenient for its corporate purposes, to use the same so long as its corporate existence shall continue, to lease or make contracts with respect to the use of the same, or to dispose of the same in any manner it deems to the best advantage of the authority. No property shall be acquired under the provisions of this Act upon which any lien or encumbrance exists, unless, at the time such property is so acquired, a sufficient sum of money is to be deposited in trust to pay and redeem the fair value of such lien or encumbrance. If the authority shall deem it expedient to construct any project on lands which are subject to the control of the Decatur County School District, the school district is authorized to convey such lands to the authority for such consideration as may be agreed upon by the authority and the Decatur County School District, taking into consideration the public benefit to be derived from such conveyance;
- (4) To exercise the powers conferred upon a "public corporation" or "public authority" by Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority being hereby expressly declared to be a "public corporation" or "public authority" within the meaning of such provision of the Constitution of Georgia;

- (5) To appoint, select, and employ officers, agents, and employees, including engineering, architectural, and construction experts, fiscal agents, and attorneys, and fix their respective compensations;
- (6) To execute contracts, leases, agreements, and instruments necessary or convenient in connection with the acquisition, construction, addition, extension, improvement, equipping, operation, or maintenance of the project; and any and all persons, firms, corporations, and the Decatur County School District, are authorized to enter into contracts, leases, agreements, or instruments with the authority upon such terms and for such purposes as they deem advisable and as they are authorized to enter into by law;
- (7) To acquire, construct, add to, extend, improve, equip, operate, and maintain projects;
- (8) To pay the costs of projects with the proceeds of revenue bonds or other obligations issued by the authority or from any grant or contribution from the United States of America or any agency or instrumentality thereof or from this state or any agency or instrumentality or other political subdivision thereof or from any other source whatsoever;
- (9) To accept loans or grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof upon such terms and conditions as the United States of America or such agency or instrumentality may require;
- (10) To accept loans or grants of money or materials or property of any kind from this state or any agency or instrumentality or political subdivision thereof upon such terms and conditions as this state or such agency or instrumentality or political subdivision may require;
- (11) To borrow money for any of its corporate purposes, from any bank, banks or lending institution; to execute notes or other evidences of such indebtedness; and to secure the same by assigning all rights and pledging all funds to be received by the authority from a contract or lease entered into by the authority and the Decatur County School District;
- (12) To issue revenue bonds, and to provide for the payment of the same and for the rights of the holders thereof;
- (13) To sell, lease, grant, exchange, or otherwise dispose of any surplus property, both real and personal, or interest therein not required in the normal operation of and usable in the furtherance of the purpose for which the authority was created;

(14) To exercise any power usually possessed by private corporations performing similar functions, including the power to incur short-term debt and to approve, execute, and deliver appropriate evidence of any such indebtedness; and

(15) To do all things necessary or convenient to carry out the powers expressly given in this Act.

## **SECTION 6.**

### **Revenue bonds.**

The authority, or any authority or body which has or which may in the future succeed to the powers, duties, and liabilities vested in the authority created by this Act, shall have power and is authorized to provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying all or any part of the costs of the project and for the purpose of refunding revenue bonds or other obligations previously issued. The principal of and interest on such revenue bonds shall be payable solely from the special fund provided for such payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or rates per annum payable at such time or times, shall mature at such time or times not exceeding 40 years from their date or dates, shall be payable in such medium of payment as to both principal and interest as may be determined by the authority, and may be redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority in the resolution for the issuance of such revenue bonds. Such revenue bonds or obligations shall be issued pursuant to and in conformity with the Revenue Bond Law, and all procedures pertaining to such issuance and the conditions thereof shall be the same as those contained in said article and any amendments thereto.

## **SECTION 7.**

Same; negotiability; exemption from taxation.

All revenue bonds shall have and are declared to have all the qualities and incidents of negotiable instruments under the laws of this state. All revenue bonds and their transfer and the income therefrom shall be exempt from all taxation within this state.

## **SECTION 8.**

Same; sale; price; proceeds.

The authority may sell revenue bonds through negotiated or public sale in such manner and for such price as it may determine to be in the best interest of the authority. The proceeds derived from the sale of revenue bonds shall be used solely for the purpose provided in the resolutions and proceedings authorizing the issuance of such revenue bonds.

#### **SECTION 9.**

Same; conditions precedent to issuance.

The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the resolution, the authority shall determine that the project financed with the proceeds of the revenue bonds is self-liquidating. Revenue bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, and things which are specified or required by this Act. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special or adjourned meeting of the authority by a majority of its members.

#### **SECTION 10.**

Credit not pledged.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the State of Georgia or any political subdivision thereof, nor a pledge of the faith and credit thereof; but such bonds shall be payable solely from the rentals, revenues, earnings, and funds of the authority as provided in the resolution or trust agreement or indenture authorizing the issuance and securing the payment of such bonds; and the issuance of such revenue bonds shall not directly, indirectly, or contingently obligate this state or any political subdivision thereof to levy or to pledge any form of taxation whatsoever therefor or to make any appropriation for their payment, and all such bonds shall contain recitals on their face covering substantially the foregoing provisions of this section. However, any other political subdivision contracting with the authority may obligate itself to pay the amounts required under any contract entered into with the authority from funds received from taxes to be levied and collected for that purpose to the extent necessary to pay the obligations contractually incurred under this section and from any other source. The obligation to make such payments shall constitute a general obligation and a pledge of the full faith and credit



of the obligor but shall not constitute a debt of the obligor within the meaning of Article IX, Section V, Paragraph I of the Constitution. When such obligation is made to make such payments from taxes to be levied for that purpose, then the obligation shall be mandatory to levy and collect such taxes from year to year in an amount sufficient to fulfill and fully comply with the terms of such obligation.

#### **SECTION 11.**

##### **Trust indenture as security.**

In the discretion of the authority, any issuance of revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside this state. Either the resolution providing for the issuance of the revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition and construction of the project, the maintenance, operation, repair, and insuring of the project, and the custody, safeguarding, and application of all moneys.

#### **SECTION 12.**

##### **To whom proceeds of bonds shall be paid.**

In the resolution providing for the issuance of revenue bonds or in the trust indenture, the authority shall provide for the payment of the proceeds of the sale of the revenue bonds to any officer or person who, or any agency, bank, or trust company which, shall act as trustee of such funds and shall hold and apply the same to the purposes thereof, subject to such regulations as this Act and such resolution or trust indenture may provide.

#### **SECTION 13.**

##### **Sinking fund.**

The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls, fines, charges, and earnings derived from any particular project or projects, regardless of whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular project for which revenue bonds have been issued, unless otherwise pledged and

allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the revenue bonds or the trust indenture may provide. Such funds so pledged from whatever source received shall be set aside at regular intervals as may be provided in the resolution or trust indenture into a sinking fund, which sinking fund shall be pledged to and charged with the payment of:

- (1) The interest upon such revenue bonds as the same shall fall due;
- (2) The principal or purchase price of such revenue bonds as the same shall fall due;
- (3) Any premium upon such revenue bonds as the same shall fall due;
- (4) The purchase of such revenue bonds in the open market; and
- (5) The necessary charges of the paying agent for paying the principal and interest.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds without distinction or priority of one over another.

#### **SECTION 14.**

##### **Remedies of bondholders.**

Any holder of revenue bonds or any of the coupons appertaining thereto and the trustee under the trust indenture, if any, except to the extent the rights given in this Act may be restricted by resolution passed before the issuance of the revenue bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of this state, including specifically but without limitation, the Revenue Bond Law, or granted under this Act or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this Act or by such resolution or trust indenture to be performed by the authority or any officer thereof, including the fixing, charging, and collecting of revenues, fees, tolls, fines, and other charges for the use of the facilities and services furnished.

#### **SECTION 15.**

##### **Validation.**

Revenue bonds and the security therefor shall be confirmed and validated in accordance with the procedure of the Revenue Bond Law. The petition for validation shall also make party defendant to such action this state and any institution, department, or other agency of this state and any county, municipality, school district, or other political subdivision or authority of this state which has contracted with the authority for services or facilities relating to the project for which revenue bonds are to be issued and sought to be validated. Such defendant shall be required to show cause, if any exists, why such contract or contracts shall not be adjudicated as a part of the basis for the security for the payment of any such revenue bonds. The revenue bonds, when validated, and the judgment of validation shall be final and conclusive with respect to such revenue bonds and the security for the payment thereof and interest thereon and against the authority and all other defendants.

#### **SECTION 16.**

Venue and jurisdiction.

Any action to protect or enforce any rights under the provisions of this Act or any suit or action against such authority shall be brought in the Superior Court of Decatur County, Georgia, and any action pertaining to validation of any revenue bonds issued under the provisions of this Act shall likewise be brought in said court which shall have exclusive, original jurisdiction of such actions.

#### **SECTION 17.**

Interest of bondholders protected.

While any of the revenue bonds issued by the authority remain outstanding, the powers, duties, or existence of said authority or its officers, employees, or agents shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such revenue bonds, and no other entity, department, agency, or authority shall be created which will compete with the authority to such an extent as to affect adversely the interests and rights of the holders of such revenue bonds, nor shall this state itself so compete with the authority. The provisions of this Act shall be for the benefit of the authority and the holders of any such revenue bonds and, upon the issuance of such revenue bonds under the provisions of this Act, shall constitute a contract with the holders of such revenue bonds.

#### **SECTION 18.**

Moneys received considered trust funds.

All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenue, income, fees, and earnings, shall be deemed to be trust funds to be held and applied solely as provided in this Act.

#### **SECTION 19.**

Rates, charges, and revenues; use.

The authority is authorized to prescribe and fix rates and to revise the same from time to time and to collect revenues, tolls, fees, and charges for the services, facilities, and commodities furnished, and, in anticipation of the collection of the revenues, to issue revenue bonds or other types of obligations as provided in this Act to finance, in whole or in part, the costs of the project and to pledge to the punctual payment of said revenue bonds or other obligations all or any part of the revenues.

#### **SECTION 20.**

Rules, regulations, service policies, and procedures for operation of projects.

It shall be the duty of the authority to prescribe rules, regulations, service policies, and procedures for the operation of any project or projects constructed or acquired under the provisions of this Act, including the basis upon which recreational services and facilities and other public services and facilities shall be furnished. The authority may adopt bylaws.

#### **SECTION 21.**

Tort immunity.

To the extent permitted by law, the authority shall have the same immunity and exemption from liability for torts and negligence as the Decatur County School District; and the officers, agents, and employees of the authority when in the performance of the work of the authority shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of the Decatur County School District in the performance of their public duties or work of the school district.

#### **SECTION 22.**

Property not subject to levy and sale.

The property of the authority shall not be subject to levy and sale under legal process.

**SECTION 23.**

Tax-exempt status of authority.

The properties of the authority, both real and personal, are declared to be public properties used for the benefit and welfare of the people of this state and not for purposes of private or corporate benefit and income, and such properties and the authority shall be exempt from all taxes and special assessments of any municipality or county or this state or any political subdivision thereof.

**SECTION 24.**

Effect on other governments.

This Act shall not and does not in any way take from Decatur County, Georgia, or any county or municipality the authority to own, operate, or maintain facilities or to issue revenue bonds as provided by the Revenue Bond Law.

**SECTION 25.**

Liberal construction of Act.

This Act, being for the welfare of various political subdivisions of this state and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 26.**

General repealer.

All laws and parts of laws in conflict with this Act are repealed.